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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,996	12/10/2001	Stephen Carter	010079	3525

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Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

EXAMINER

FOX, BRYAN J

ART UNIT

PAPER NUMBER

2686

DATE MAILED: 07/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/015,996

Applicant(s)

CARTER, STEPHEN

Examiner

Bryan J Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because there is a typing error. The last sentence reads "the handset enter is a clear mode..." however the examiner believes the line should read, "the handset enters a clear mode...". Correction is required. See MPEP § 608.01(b).

Claim Objections

Claim 4 is objected to because of the following informalities: "the send/talk key" should be changed to "a send/talk key". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 9, 10, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Chapman, Jr et al (US006704567B1).

Regarding claims 9, 10, 19 and 20, Chapman, Jr et al discloses a wireless communications device that includes the ability of the wireless handset user to press a "private" key either during or before engaging in a call, which sends a "private" message

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via the command channel to the wireless network node device (see column 11, lines 36-43), which reads on the claimed "sending at least one message to request making a secure call". The network node checks its resources and the priorities of the current request versus the resources being used (see column 11, lines 53-60) and responds (see step 1304, figure 13), which reads on the claimed "receiving at least one message authorizing a secure call request".

Claims 11 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Salihi (US005077791).

Regarding claims 11 and 21, Salihi discloses a wireless communication system capable of supporting both encrypted and un-encrypted transmissions (see column 1, lines 6-12) where the a call request is sent and a channel grant message is received in order to set up a call in a particular mode (see figure 4). Salihi also discloses that the mode may be changed during a call (see steps 412-418 and column 5, line 66 – column 6, line 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter et al (US006151677A) in view of Mannisto (US005805084A).

Regarding claim 1, Walter et al discloses a wireless telephone system for security where a keypad 152 includes a switch or other means, such as a pushbutton, for allowing the user to activate a secure transmission mode (see column 5, lines 34-37). Walter et al fails to expressly disclose that the pushbutton must be pressed for a certain amount of time.

Mannisto discloses a system where in order to set a keyboard lock, a user depresses and holds the key for a given delay period. If the button is not pressed for a certain amount of time, the phone does not enter the keyboard lock state (see column 2, line 62 – column 3, line 3).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Walter et al with Mannisto so that the holding of the key sets the secure mode in order to avoid the need for a separate key which takes up space in the keypad and increases manufacturing costs as suggested by Mannisto (see column 1, lines 60-61).

Regarding claim 2, the combination of Walter et al and Mannisto discloses a system where a PIN is used to unlock the security features (see Walter et al column 4, lines 50-52 and column 7, lines 6-10 and figure 3).

Regarding claim 3, the combination of Walter et al and Mannisto discloses a system where a suitable delay for the key to be pressed and held down for is roughly 0.5-2 seconds (see Mannisto column 3, line 3).

Regarding claim 5, the combination of Walter et al and Mannisto discloses that after the phone is powered on, the user unlocks it by entering a PIN (see Walter et al column 7, lines 6-10 and figure 3), which reads on the claimed "the step of entering a PIN number is entered each time the handset is activated".

Regarding claim 12, Walter et al discloses a wireless telephone system for security where a keypad 152, which reads on the claimed "user-interface capable of being depressed", includes a switch or other means, such as a pushbutton, for allowing the user to activate a secure transmission mode (see column 5, lines 34-37). Walter et al fails to expressly disclose that the pushbutton must be pressed for a certain amount of time.

Mannisto discloses a system where in order to set a keyboard lock, a user depresses and holds the key for a given delay period. If the button is not pressed for a certain amount of time, the phone does not enter the keyboard lock state (see column 2, line 62 – column 3, line 3). This system must include the circuit for detecting the amount of time a key is depressed for as claimed.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Walter et al with Mannisto so that the holding of the key sets the secure mode in order to avoid the need for a separate key which takes up space in the

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keypad and increases manufacturing costs as suggested by Mannisto (see column 1, lines 60-61).

Regarding claim 13, Walter et al discloses a wireless telephone system for security where a keypad 152 includes a switch or other means, such as a pushbutton, for allowing the user to activate a secure transmission mode (see column 5, lines 34-37). Walter et al fails to expressly disclose that the pushbutton must be pressed for a certain amount of time.

Mannisto discloses a system where in order to set a keyboard lock, a user depresses and holds the key for a given delay period. If the button is not pressed for a certain amount of time, the phone does not enter the keyboard lock state (see column 2, line 62 – column 3, line 3).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Walter et al with Mannisto so that the holding of the key sets the secure mode in order to avoid the need for a separate key which takes up space in the keypad and increases manufacturing costs as suggested by Mannisto (see column 1, lines 60-61).

Regarding claim 14, the combination of Walter et al and Mannisto discloses a system where a PIN is used to unlock the security features (see Walter et al column 4, lines 50-52 and column 7, lines 6-10 and figure 3), which reads on the claimed “means for entering a personal identification number (PIN) to register as a secure user”.

Regarding claim 15, the combination of Walter et al and Mannisto discloses a system where a suitable delay for the key to be pressed and held down for is roughly 0.5-2 seconds (see Mannisto column 3, line 3).

Regarding claim 17, the combination of Walter et al and Mannisto discloses that after the phone is powered on, the user unlocks it by entering a PIN (see Walter et al column 7, lines 6-10 and figure 3), which reads on the claimed "the step of entering a PIN number is entered each time the handset is activated".

Claims 4 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter et al in view of Mannisto as applied to claim 1 above, and further in view of Alanara et al (US005845205A).

Regarding claims 4 and 16, the combination of Walter et al and Mannisto fails to expressly disclose that the key pressed down is the send/talk key.

Alanara et al discloses a phone system where a function is assigned to holding down the "send" key (see column 3, lines 50-61).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Walter et al and Mannisto so that the send key is held down in order to provide a more intuitive interface.

Claims 6, 7, 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter et al and Mannisto as applied to claim 2 above, and further in view of Harris et al (US006442406B1).

Regarding claims 6 and 18, the combination of Walter et al and Mannisto fails to expressly disclose the disabling of the telephone if the PIN is incorrectly entered a number of times.

Harris et al discloses a system requiring entry of a code to change operating parameters (see column 1, lines 60-67), but when the code entry is not correct a conventional lockout routine is executed (see column 1, line 67 – column 2, line 6), which reads on the claimed “disabling the handset if the PIN number is incorrectly entered more than a predetermined number of times”.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Walter et al and Mannisto to include the above disabling of the telephone if the PIN is entered incorrectly a number of times in order to enhance the security of the device by making it more difficult for an unauthorized user to break the code.

Regarding claim 7, the combination of Walter et al, Mannisto and Harris et al discloses between 3 and 5 tries as an exemplary number of incorrect entries (see Harris et al column 2, lines 2-6). The combination of Walter et al, Mannisto and Harris et al fails to expressly disclose 7 as the number of tries for entering a PIN however this difference is not critical to the invention and would not render the claimed invention patentable over the disclosed invention because both provide the end result of preventing an unauthorized user from the functions the PIN is protecting. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Walter et al, Mannisto and Harris et al such that

the phone is disabled after 7 incorrect PIN entries in order to further prevent an unauthorized user from gaining access to the functions the PIN is protecting.

Regarding claim 8, the combination of Walter et al, Mannisto and Harris et al discloses between 3 and 5 tries as an exemplary number of incorrect entries (see Harris et al column 2, lines 2-6).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Maggenti et al (US 20020055366A1) discloses a communication device for providing security in a group communication network.

Tanaka et al (US005493693A) discloses a mobile radio communication system utilizing mode designation.

DeLuca et al (US005612682A) discloses a method and apparatus for controlling utilization of a process added to a portable communication device.

Aaro et al (US006662020B1) discloses an arrangement for effecting secure transactions in a communication device.

Talbot (US004555805) discloses a secure mobile telephone system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan J Fox whose telephone number is (703) 305-8994. The examiner can normally be reached on Monday through Friday 9-5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on (703) 305-4379. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BJF


CHARLES APPIAH
PRIMARY EXAMINER